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EXAMINER

CHARLES, MARCUS

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PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.



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**BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES**

Application Number: 09/772,137

Filing Date: January 29, 2001

Appellant(s): NOSAKA ET AL.

John S. Mortimer
For Appellant

EXAMINER'S ANSWER

This is in response to the corrected appeal brief filed February 26, 2007.

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(1) Real Party in Interest

A statement identifying by name the real party in interest is contained in the brief.

(2) Related Appeals and Interferences

The examiner is not aware of any related appeals, interferences, or judicial proceedings, which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

(3) Status of Claims

The statement of the status of claims contained in the brief is correct.

(4) Status of Amendments After Final

The appellant's statement of the status of amendments after final rejection contained in the brief is correct.

(5) Summary of Claimed Subject Matter

The summary of claimed subject matter contained in the brief is correct.

(6) Grounds of Rejection to be Reviewed on Appeal

The appellant's statement of the grounds of rejection to be reviewed on appeal is correct.

NEW GROUND(S) OF REJECTION

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

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2. Claims 1and 4-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over JP (10-252833) in view of Matsumoto. JP (10-252833) discloses a method of making a belt on the belt back surface that engages a pulley. JP (10-252833) recognizes the problem involved when providing a mark on a pulley engaging surface; the marking on the pulley engaging surface of the belt is quickly grounded by pulley during operation and the marks disappears in the process. JP (10-252833) discloses that the problem can be solved by proving a marking with a depth of 0.1-1.0 mm on the pulley engaging surface is sufficient enough to maintain the marking without providing a bad influence on the belt and interfering with the mechanical property of the belt. JP (10-252833) does not disclose the marking is provided on the lateral surface of the belt. Matsumoto discloses a belt (figs, 4) having a marking on the lateral side surface of the belt in order to properly identify the belt history and to keep the mark recognizable for a long time. Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to modify the belt of JP (10-252833) so as to provide the marking on the lateral side surface of the belt in view of Matsumoto in order to properly identify the belt history and to keep the mark recognizable for a long time.

In claim 4, note the marking on the belt of is provided by laser beam.

In claim 5, note JP (10-252833) discloses a method of producing the marking on the surface of the belt by inscribing the surface with a laser beam having an angle of deflection and a scanning mirror.

In claim 6, and 12, JP (10-252833) does not disclose the belt is a double V belt.

Matsumoto discloses the method of in scribing a marking on a cog belt, a V-belt or a double V-belt. Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to modify the belt of JP (10-252833) so that it is a double V-belt in view of Matsumoto et al. in order to increase power and drive variable power output systems.

In claims 7, JP ('833) discloses a method of produce a marking on the surface of a belt by scribing the surface with a laser beam with an angle of deflection and a scanning mirror (24) in order to prevent inadvertent displacement, removal or wearing of the marking during operation.

In claim 9, JP (10-252833) discloses the method of providing a coating, which has a color different from the marking in order to make the marking clearer and easy to identify (see paragraph [0011]).

In claims 10-11, JP (10-252833) does not disclose the body is stationary. It would have been obvious to one of ordinary skill in the art at the time of the invention to rearranging the device of JP (10-252833) so that the body is stationary, since it has been held that rearranging parts of an invention involves only routine skill in the art. In re Japikse, 86 USPQ 70. In addition, applicant has not disclose that by having the body stationary solves any stated problem or is for any particular purpose and it appears that the system would perform equally well with the body being movable.

In claim 14, JP (10-252833) discloses the belt as claimed.

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In claims 15-20, the method steps are inherently included during the marking procedure of JP (10-252833) and Mastumoto device.

3. Claim 40 is rejected under 35 U.S.C. 103(a) as being unpatentable over JP (10-252833) in view of Matsumoto. JP (10-252833) discloses a method of making a belt on the belt back surface that engages a pulley. JP (10-252833) recognizes the problem involved when providing a mark on a pulley engaging surface; the marking on the pulley engaging surface of the belt is quickly grounded by pulley during operation and the marks disappears in the process. JP (10-252833) discloses that the problem can be solved by providing a marking with a laser beam with a depth of 0.1-1.0 mm on the pulley engaging surface is sufficient enough to maintain the marking without providing a bad influence on the belt and interfering with the mechanical property of the belt. JP (10-252833) also discloses the method of providing a coating, which has a color different from the marking in order to make the marking clearer and easy to identify (see paragraph [0011]). JP (10-252833) does not disclose the marking is provided on the lateral surface of the belt. Matsumoto discloses a belt (figs. 4) having a marking on the lateral side surface of the belt in order to properly identify the belt history and to keep the mark recognizable for a long time. Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to modify the belt of JP (10-252833) so as to provide a marking on the lateral surface of the belt in view of Matsumoto in order to properly identify the belt history and to keep the mark recognizable for a long time.

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4. Claims 38-39 and 41 are rejected under 35 U.S.C. 103(a) as being unpatentable over Matsumoto in view of JP ('833, applicant's prior art). Matsumoto discloses a power transmission belt having a body (1), a length and exposed lateral side surfaces, the lateral surface of the belt is altered by a backing layer (4) attached thereto, and a marking (3) inscribed directly on the backing layer. Matsumoto also discloses that the marking (3) can be inscribed directly provided on the lateral side surface of the belt (col. 4, lines 6-16) by printing or other methods (may include laser). Matsumoto does not disclose that the marking is formed by inscribing with a depth ranging from 0.1-1mm. In addition, Matsumoto fails to disclose the marking can be formed on the load-carrying member. JP (10-252833) discloses a method of produce a marking on the surface of a belt by scribing the surface at a depth ranging from 0.1-1mm without providing a bad influence on the belt and interfering with the mechanical property of the belt, and also discloses the marking can be on the loading carrying member in order to prevent the mark from wearing out when the marking engages a pulley surface thereby increase the life of the marking. Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to inscribe the marking of Matsumoto at depth ranging from 0.1mm 0 1mm in view of JP (10-252833) in order to prevent the mark from wearing out when the marking engages a pulley surface thereby increase the life of the marking.

In claim 39, Matsumoto fails to disclose directing a material with contrasting colors into the depression. JP (10-252833) discloses the method of providing a coating, which has a color different from the marking in order to make the marking clearer and

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easy to identify (see paragraph [0011]). Therefore, it would be have been obvious to one of ordinary skill in the art at the time of the invention to provide contrasting material to the making marking of Matsumoto in view of JP (10-252833) in order to make the marking clearer and easy to identify.

(7) Claims Appendix

The copy of the appealed claims contained in the Appendix to the brief is correct.

(8) Evidence Relied Upon

JP (10-252883)	Toshiaki et al.	09-1998
6,103,349	Matsumoto	25-2000

(9) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims:

The prior art to JP (10-252833) in view of Matsumoto discloses the claimed.

Matsumoto teaches the belt marking and the method thereof to identified belt information without dismantling the belt while in operation. Matsumotor teaches the marking (4) on the lateral side of the belt (see figs. 1-4). Matsumotor teaches away from the claimed invention in that by placing the marking on the back surface of the belt the marking is susceptible to succumb to friction between the idler pulley and the belt thus causing the marking (3) to erode by wearing (see col. 1, lines 24-54). Therefore, Matsumotor provides the marking (3) on the lateral sides of the belt by having a hiding layer (4) covering the marking on the lateral surface of the belt. The layer protects the marking from coming into direct contact with any object. Additionally, Matsumotor

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discloses the marking can be provided without the layer (col. 4, lines 4-12). JP (10-252833). JP (10-252833) discloses that the problem of having the marking on the back surface of the belt can be solved by proving a marking with a depth of 0.1-1.0 mm on the pulley engaging surface is sufficient enough to maintain the marking without providing a bad influence on the belt and interfering with the mechanical property of the belt (paragraph [0022]).

(10) Response to Argument

Applicant's arguments with respect to claims 1 and 4-7, 9-20 and 38-41 have been considered but are moot in view of the new ground(s) of rejection. In the new grounds of rejection, JP (10-252883) clear recognizes the problem of having the marking on the pulley engaging surface area. JP (10-252883) provides a solution to Matsumoto problems by having the marking at a depth of 0.1-1mm on the pulley-engaging surface. Therefore, one of ordinary skill in the art could modify the device of Matsumoto so as to provide the marking on the belt engaging surface so that the marking can be last longer, be larger and clearer so as to be easily identified even at a further distance.

For the above reasons, it is believed that the rejections should be sustained.

This examiner's answer contains a new ground of rejection set forth in section (9) above. Accordingly, appellant must within **TWO MONTHS** from the date of this answer exercise one of the following two options to avoid *sua sponte dismissal of the appeal* as to the claims subject to the new ground of rejection:

(1) Reopen prosecution. Request that prosecution be reopened before the primary examiner by filing a reply under 37 CFR 1.111 with or without amendment, affidavit or other evidence. Any amendment, affidavit or other evidence must be relevant to the new grounds of rejection. A request that complies with 37 CFR 41.39(b)(1) will be entered and considered. Any request that prosecution be reopened will be treated as a request to withdraw the appeal.

(2) Maintain appeal.

Request that the appeal be maintained by filing a reply brief as set forth in 37 CFR 41.41. Such a reply brief must address each new ground of rejection as set forth in 37 CFR 41.37(c)(1)(vii) and should be in compliance with the other requirements of 37 CFR 41.37(c). If a reply brief filed pursuant to 37 CFR 41.39(b)(2) is accompanied by any amendment, affidavit or other evidence, it shall be treated as a request that prosecution be reopened before the primary examiner under 37 CFR 41.39(b)(1).

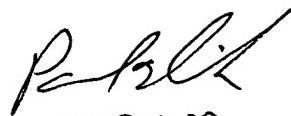
Extensions of time under 37 CFR 1.136(a) are not applicable to the TWO MONTH time period set forth above. See 37 CFR 1.136(b) for extensions of time to reply for patent applications and 37 CFR 1.550(c) for extensions of time to reply for ex parte reexamination proceedings.

(11) Related Proceeding(s) Appendix

No decision rendered by a court or the Board is identified by the examiner in the Related Appeals and Interferences section of this examiner's answer.

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Director's Signature:



DIRECTOR
TC 3600

Conferees:

Richard Ridley 
Thomas Hannon 

Respectfully submitted,



MARCUS CHARLES
PRIMARY EXAMINER